

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	
LITIGATION)	MDL No. 1456
_____)	Civil Action No. 01-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	Hon. Patti B. Saris
)	
<i>United States of America ex rel. Ven-a-</i>)	
<i>Care of the Florida Keys, Inc., et al. v.</i>)	
<i>Boehringer Ingelheim Corp., et al., Civil</i>)	
Action No. 07-10248-PBS)	

PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE REPLY

Plaintiffs United States of America and Relator Ven-A-Care of the Florida Keys, Inc. hereby seek leave to file the attached 4-1/2-page Reply brief. As grounds therefor, plaintiffs state that in their Opposition to Plaintiffs' Motion to Compel Testimony, defendants have raised several issues that mischaracterize plaintiffs' arguments and the facts, and made some assertions that are not accurate. Accordingly, plaintiffs believe that the attached very brief Reply will assist the Court in resolution of the issues before it.

The undersigned conferred with defendants' counsel and was informed defendants would not oppose this motion or the filing of a Reply.

WHEREFORE plaintiffs ask that this Motion be granted and that the Court grant leave to

file the attached Reply brief.

For the United States of America,

MICHAEL F. HERTZ
DEPUTY ASSISTANT ATTORNEY GENERAL

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

By: /s/ Barbara Healy Smith
GEORGE B. HENDERSON, II
BARBARA HEALY SMITH
JAMES J. FAUCI
Assistant United States Attorneys
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
(617) 748-3263

JOYCE R. BRANDA
DANIEL R. ANDERSON
JOHN K. NEAL
LAURIE A. OBEREMBT
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
(202) 514-3345

Respectfully submitted,

For the relator, Ven-A-Care of the Florida
Keys, Inc.,

JAMES J. BREEN
The Breen Law Firm, P.A.
3350 S.W. 148th Avenue Suite 110
Miramar, FL 33027
Tel: (954) 874-1635

ROSLYN G. POLLACK
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-3000

LOCAL RULE 7.1 CERTIFICATION

The undersigned counsel certifies pursuant to Local Rule 7.1(a)(2) that counsel for the United States conferred with counsel for the defendants in a good faith attempt to resolve or the narrow the issues raised in this Motion.

Dated: March 17, 2009

/s/ Barbara Healy Smith
Barbara Healy Smith
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on March 17, 2009, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ Barbara Healy Smith

Barbara Healy Smith

Assistant United States Attorneys

Dated: March 17, 2009